

**BEFORE THE OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS
FRANK D. REEVES MUNICIPAL BUILDING
2000-14th STREET, N.W., SUITE 420
WASHINGTON, D.C. 20009
(202) 671-0550**

IN THE MATTER OF)	DATE: December 13, 2005
)	
Terrence J. Costello)	DOCKET NO.: 05F-073
Chief – Management Operations (Former))	
Office of the Chief Financial Officer)	
5302 Little Falls Road)	
Arlington, Virginia 22207)	

ORDER

Statement of the Case

This matter came before the Office of Campaign Finance (hereinafter OCF) Office of the General Counsel following a determination by its Public Information and Records Management Division, that pursuant to D.C. Official Code §1-1106.02 (2001 Edition), Terrence J. Costello, Chief – Management Operations (Former), Office of the Chief Financial Officer, failed to timely file, a Financial Disclosure Statement for calendar year 2004, on or before May 16, 2005, as required by D.C. Official Code §1-1106.02, and also failed to file on or before the OCF sanctioned extended filing deadline of June 13, 2005.

By Notice of Hearing, Statement of Violations and Order of Appearance dated September 14, 2005, OCF ordered Terrence J. Costello (hereinafter respondent), to appear at a scheduled hearing on September 26, 2005, and show cause why he should not be found in violation of the D.C. Campaign Finance Reform and Conflict of Interest Act of 1974, as amended by D.C. Official Code §§1-1101.01 et seq., and fined accordingly.

Summary of Evidence

OCF alleges that the respondent failed to timely file the statutorily required Financial Disclosure Statement (FDS) for calendar year 2004, on or before June 13, 2005.

On September 26, 2005, the respondent appeared at the scheduled hearing and testified that his filing delinquency was an oversight. Respondent stated that he was not afforded an exit interview and was not informed of the requirement to file upon separation from government service. Respondent further stated that he did not receive notification to file from OCF. Respondent confirmed that he was a member of the

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Management Supervisory Service. Respondent filed the required Financial Disclosure Statement on October 4, 2005.

Findings of Fact

Having reviewed the allegations and the record herein, I find:

1. Respondent is a member of the Management Supervisory Service.
2. Respondent timely filed Financial Disclosure Statements for calendar years 2001, 2002 and 2003 on May 13, 2002, May 12, 2003, and May 13, 2004 respectively.
3. Respondent was required to file a Financial Disclosure Statement with OCF for calendar year 2004, on or before June 13, 2005.
4. Respondent filed the required Financial Disclosure Statement on October 4, 2005.
5. Respondent has no history of prior filing delinquencies.
6. Respondent provided a credible explanation for the filing delinquency because he believed he was not informed of the requirement to file a final Financial Disclosure Statement with OCF upon separation from government service; and, it is more likely than not that this occurred inasmuch as respondent immediately filed the required FDS upon OCF's notification to do so.
7. Respondent is currently in compliance with the statute.

Conclusions of Law

Based upon the record provided by OCF, I therefore conclude:

1. Respondent violated D.C. Official Code §1-1106.02.
2. The penalty established at D.C. Official Code §1-1103.05(b)(3), and 3DCMR §§3711.2(aa), 3711.2 and 3711.4 for failure to timely file a Financial Disclosure Statement required by D.C. Official Code §1-1106.02 is a fine of \$50.00 per day for each business day subsequent to the due date.

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3. In accordance with D.C. Official Code §1-1103.05(b)(3), the respondent may be fined a maximum of \$2,000.00 for failing to timely file a Financial Disclosure Statement.
4. For good cause shown pursuant to 3DCMR §3711.6, the Director of Campaign Finance (Director) may modify, rescind, dismiss or suspend any fine.
5. Respondent's explanation for failing to timely file, in that he was not aware of the requirement to file a final FDS with OCF upon separation from government service, and that he immediately filed the required report upon OCF's notification to do so, coupled with a favorable filing history, constitute good cause for suspension of the fine.

Recommendation

In view of the foregoing and information included in the record, I hereby recommend that the Director suspend the imposition of the fine in this matter.

Date

**Jean Scott Diggs
Hearing Officer**

Concurrence

In view of the foregoing, I hereby concur with the Recommendation.

Date

**Kathy S. Williams
General Counsel**

ORDER OF THE DIRECTOR

IT IS ORDERED that the fine in this matter be hereby suspended.

Date

Cecily E. Collier-Montgomery
Director

SERVICE OF ORDER

This is to certify that I have served a true copy of the foregoing Order on Terrence J. Costello, by regular mail, on December 13, 2005.

cc: Natwar M. Gandhi, Chief Financial Officer
Office of the Chief Financial Officer
1350 Pennsylvania Avenue, NW
Room 209
Washington, DC 20009

Paul Lundquist, HR Director
Office of the Chief Financial Officer
941 North Capitol Street, NE
Suite 1200
Washington, DC 20002

NOTICE

Pursuant to 3DCMR §3711.5 (1999), any fine imposed by the Director shall become effective on the 16th day following the issuance of a decision and order, if the respondent does not request an appeal of this matter. If applicable, within 10 days of the effective date of this order, please make a check or money order payable to the D.C. Treasurer, c/o Office of Campaign Finance, Suite 420, 2000-14th Street, N.W., Washington, D.C. 20009.